IN THE HIGH COURT OF BOMBAY AT GOA
***

FIRST APPEAL NO. 146 OF 2003

Shri Vassudeo Bhiku Porob,
Bodanwada, Honda, Sattari,
Goa. ... Appellant.

Versus

1. Mrs. Ujwala Bhikaji
Gaonkar, House No.461,
Gaonkarwada, Honda, Sattari,
Goa, and

2. Shri Rajesh Maheshwar
Gaitonde, A-4 Greenland
Housing Colony, Behind
Military Hospital,
Campal, Panaji, Goa. ... Respondents.

Shri S. J. Samant, advocate for the appellant.

Shri J. Vaz, advocate for respondent no.2.

CORAM : F. I. REBELLO J.
DATE : 25th July, 2003.

ORAL ORDER

As the issue involved was a limited issue, notice was given only to respondent no.2, the registered owner of the vehicle, at the time when the vehicle met with the accident.

2. On behalf of the appellant learned counsel contends that considering Section 140 of the Motor Vehicles Act, it is only the registered owner who is liable and, consequently, the order passed by the learned Motor Accident Claims Tribunal dated 10th January, 2003, making both the respondents, i.e. appellant herein and respondent no.2 jointly and severally liable to pay compensation, is without jurisdiction.

3. It is not necessary to go into the other facts, including the contention of respondent no.2 that the vehicle was already sold to the appellant at the time when the accident took place. The real and limited controversy is considering the provisions of the Motor Vehicles Act and the insurance policy as to whose is the liability at the time the accident arose. The liability will have to be that of the registered owner because it is the registered owner on whom the duty is cast to take out the insurance policy. Under these circumstances, whatever may be the other remedy that the party may have against a person to whom he has sold the property without the policy being changed, such a remedy cannot be within the purview of the Motor Vehicles Act.

4. It was the contention on behalf of the respondent no.2 that the appellant was driving the vehicle. However, for the purpose of Section 140 that is not relevant. What is relevant is who is the owner of the vehicle.

In the light of that the Appeal is partly allowed, the impugned Order dated 10th January, 2003 is partly set aside inasmuch as the liability of the appellant herein, who was respondent no.1 before the trial Court is set aside.

F. I.REBELLO, J.

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